

REMARKS

Status of the Claims

Claims 2, 3, 5 - 13, 26 - 34, 83-85, 87 and 89 - 98 are pending. Claims 2, 26, and 83 have been amended. Amendments made to the claims should not be considered an acquiescence to the Examiner's rejections, but have been made to expedite prosecution. No new matter has been added herewith.

Rejection Under 35 U.S.C. § 112, First Paragraph: written description

A. Claims 2 - 3, 5 - 13, 26 - 34, and 89 – 98 are fully supported by the specification.

The rejection of Claims 2 - 3, 5 - 13, 26 -34, and 89 - 98 was maintained as new matter for allegedly failing to be described in the specification. Applicants traverse the rejection. The Patent Office alleges that new matter was introduced into the claims by the amendments filed on 8/15/07. Applicants respectfully disagree. The Examiner's position was that "applicants' amendment of claims 2, 27 and 29 reciting a method of increasing the secretion of a heterologous protein in a fungal cell represents impermissible new matter." and further, that "Likewise, the limitation of nucleic acids encoding a fungal HAC1 UPR-modulating protein...is not supported by the application as filed because the application does not recite the limitation of any fungal HAC1 UPR-modulating protein comprising a DNA binding domain." While Applicants do not agree with the Examiner's arguments, the claims have been amended to expedite prosecution.

Claims 2, 27 and 29 have been amended to read ", wherein said fungal cell is a yeast or filamentous fungal cell." Support for these amendments can be found in the specification and claims as filed at least in original claims 6 and 8. Thus, there is direct support for language "yeast or filamentous fungal cell" in the specification and claims as filed.

Claims 2 - 3, 5 - 13, 26 - 34, and 89 – 98 have been amended to specify that the HAC1 UPR-modulating protein is a yeast or filamentous fungal HAC1 UPR-modulating protein. Support for the HAC1 being a "yeast or filamentous fungal HAC1" can be found at least at page 6, lines 7-13 in which it states "In one embodiment, a HAC1 nucleic acid is isolated from **yeast**. In another embodiment, a HAC1 nucleic acid is isolated from **filamentous fungi**..." Thus, there is direct support in the specification for the amendment to the Claims specifying that the HAC1 UPR-modulating protein is a "yeast or filamentous fungal" HAC1 UPR-modulating protein.

In conclusion, there is literal support for both amendments in the specification and claims as filed and Applicants respectfully request withdrawal of the rejection.

Conclusion

In light of the above amendments, as well as the remarks, Applicant believes the pending claims are in condition for allowance and issuance of a formal Notice of Allowance at an early date is respectfully requested. If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (650) 846-7595.

Respectfully submitted,

/Jennifer A. Haynes/

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